

## TIPP CITY COUNCIL STUDY SESSION

TIPP CITY, MIAMI COUNTY, OHIO

JUNE 18, 2007

**Study Session**

Mr. Collinsworth opened the joint Study Session with the Planning Board at 6:45 p.m. on this date.

**Roll Call**

Council Members in attendance included: President William D. Beagle, Vickie K. Blakey, Rick Mains, Jr., Tim Evans, Mayor George H. Lovett, Donald H. Ochs, and Patrick Hale.

Others in attendance included: John Berbach, Michael McFarland, Joe Bagi, Dave Burig, Eric Eidemiller, John Caneonere, Elden Eidemiller, Linda Eidemiller, Joe Eidemiller, Gearied Hitchcock, Mark Springer, Steve Isreal, Colleen Eidemiller, Bryan Blake, Law Director Joseph P. Moore, Assistant City Manager Bradley C. Vath, *Tipp Herald* reporter Mike Kelly, *Dayton Daily News* reporter Nancy Bowman, and Clerk of Council Misty Cheshire.

**Discussion -  
Eidemiller Rezoning**

Mr. Vath used the attached PowerPoint presentation to provide a brief history of the rezoning planned for this property. Mr. Vath noted that the current request proposed rezoning 68.111 acres PRD and 7.454 acres PC.

Dave Burig stated that Epcon Communities began 20 years ago and their plans were licensed 10 years ago. Since that time 120 – 130 franchises have occurred. Mr. Burig then presented an Epcon Community promotional video, which illustrated floor plans, exterior designs, and amenities for the proposed development.

While discussing the buffer between Meijer's and the Eidemiller development, Mr. Vath pointed out that the proposed roadway would be 60 ft. and would be considered part of the buffer (zoned PC). In addition Meijer owns 5 acres to the east of the Eidemiller property that contains a mound and an additional 125 ft. buffer.

Mrs. Blakey asked if the developer would be required to widen Kessler-Cowlesville Road. Mr. Vath stated that the developer would be required to widen the roadway in front of their property to the Corporation Line. He stated that a 3 lane roadway would be acceptable in this area. The developer would not be required to widen the roadway adjacent to the Meijer property.

Mark Springer, Planning Board, asked if Meijer was required to build the 5 acre dirt mound. Elden Eidemiller stated that Meijer specifically purchased the additional 5 acres to store the dirt from their construction rather than having the expense of taking the dirt offsite. Mr. Burig added that Meijer has agreed to allow them to plant trees along the dirt mound to improve the buffer.

Mr. Evans asked if Mr. Burig was a franchisee. Mr. Burig stated that his partner was a franchisee and once the zoning was established for this property Mr. Burig planned to join the franchise. He stated that he has been working with Ecpon for 4 years and understands their system and service.

Mr. Spring asked where the closest Epcon Community development would be in relation to Tipp City. Mr. Burig stated that the Benchrock Development in Huber Heights utilized the previous generation of Epcon designs. The homes planned for Tipp City would consist of a European design with arches. The entrance of the development would have a cobblestone bridge and pond. The club house will be similar to Benchrock's club house.

Mr. Spring asked if the units would be leased or sold. Mr. Burig stated that the units would be purchased not leased.

President Beagle asked how the remaining acreage would be developed. Mr. Burig stated that he wanted to meet with City Council and the Planning Board to get their input. He stated that sales for the development could drive the need for a second phase, which could consist of villas, patio homes, single family homes, zero lot lines, duplexes, and condominiums.

Mr. Vath noted that the developer would be required to present entire plan for the development to the Planning Board at the Preliminary Plan Stage. Mr. Mains noted that the plan could be amended but the developer would be required to go through the process again. Mr. Vath agreed.

Mr. Burig stated that the first phase of development would contain 80 units on the +/- 22 acres and be marketed to active adults and young professionals. The planned commercial area would target professional businesses such as physicians.

Mr. Ochs stated that he liked this concept and reducing the commercial development was more realistic. He also liked the subsequent development described by Mr. Burig. Mr. Ochs said that Tipp City needed this type of development.

Jack Berbach, Planning Board, noted that the City has 400 available buildable lots and asked if City Council was comfortable with another residential development.

Mr. Evans stated that it would be several years before some of the properties developed. He noted that the Loring property was in the Troy school district. Mr. Ochs stated that 117 lots was a more realist inventory of the City's available lots.

Mr. Evans stated that this development and the Fieldstone development were needed in Tipp City. He stated that he liked the plan that was presented to City Council this evening. He was also in favor of additional residential phases in the future.


Mrs. Blakey reported that throughout this rezoning she had received emails in support of residential development in this area and opposition to commercial development. She cautioned the developer that doubles in Rosewood Creek were not moving. Mrs. Blakey reiterated that a three lane roadway was important in this area. She also questioned the impact to fire, police, and the City's income tax.

Mr. Burig asked if the City would be interested in a satellite police/EMS station at this location. Mr. Collinsworth stated that the current ideal location would be farther south but that could change.

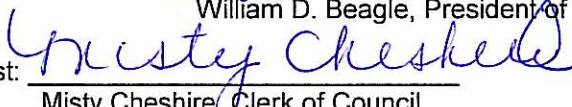
Mr. Collinsworth asked if City Council wanted to impose age restrictions for this development. Mr. Evans stated that the plan would target a specific market and would not need age restrictions. Mr. Ochs agreed.

### Adjournment

The meeting adjourned at 7:36 p.m.

  
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William D. Beagle, President of Council

Attest:

  
\_\_\_\_\_  
Misty Cheshire, Clerk of Council



## Eidemiller Rezoning

Joint City Council & Planning Board  
Study Session  
6.18.2007

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## History of Property

- ✖ 6.19.1989 Annexed into Tipp City (total 203 ac.)
- ✖ 12.4.1989 Rezoned from A-1 to I-1/PID
- ✖ 1992 - Meijers developed part of property
  - + Meijer's project had the contractual provision as part of the Preliminary Plan Agreement that "no semi tractors, with or without trailers, other than emergency vehicles shall access or depart the property via Kessler-Cowlesville Road."
- ✖ 8-16-1993 Rezoned from I-1/PID to I-1/POI
  - + City initiated update to code and zoning map.
- ✖ 11-1996 +/- 5 acres purchased by Meijers

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## First Rezoning Request

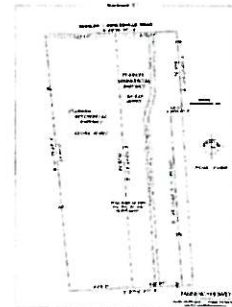
- 7-2006 - Applicant filed for Rezoning of +/- 75.565 acres from I-1/POI to PRD.
- 7.11.2006 NEGATIVE recommendation from Planning Board to City Council.
- 10.10.2006 Applicant withdrew their pending rezoning request, prior to Council action.



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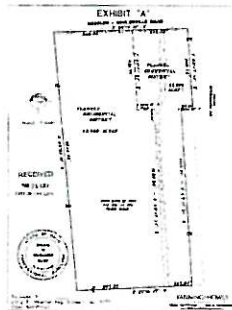
## 2<sup>nd</sup> Rezoning Request

- 2-2007 - Applicant filed for Rezoning of +/- 75.565 acres to PC (33.532 acres) and PRD (42.033 acres).
- 3.13.2007 Planning Board held public hearing on request, took testimony, questions raised about PC configuration and Meijer's operations.



## 2<sup>nd</sup> Rezoning Request - con.

- ✖ 4.10.2007 Reopened Public Hearing, with revised configuration of 22.906 acres PC & 52.659 acres PRD
- + Discussed:
  - ✖ Moratoriums
  - ✖ Unified development of all +/- 75.565 acres
  - ✖ Needed N-S roadway as required in Thoroughfare Plan
  - ✖ Pace and number of residential units in Tipp City
- + Planning Board recommended (3-2) rezoning to City Council.



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## Planning Practices

- ✖ Meijer's +/-183 acres is zoned I-1/POI immediately east of the Eidemiller parcel.
- ✖ Good planning practices separates (steps down) from industrially zoned property to residentially zoned property by some type of appropriate land use.
- ✖ Creation of commercial "buffer," is proposed in this case.

To maximize the control over the commercial property a "PC" designation was selected to have all +/-75.565 acres developed comprehensively at one time.

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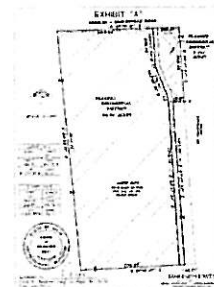
### Planning Practices – con.

- 2003 CMAP shows this area is in Planning Area #15, which shows this area as "Industrial/ Office Park and Office Service."
- "Retirement Community is noted regarding the Office Service area at the NW corner of the parcel.
- All of the rezoning requests have migrated away from the CMAP.
- 2006 Thoroughfare Plan shows a 60' right-of-way N>S thru this property.
- Proposed rezoning shows required ROW on plans, as required by Thoroughfare Plan.
- PC "uses" see handout.
- I-1/POI "uses" see handout.

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### 3<sup>rd</sup> (Current) Rezoning Request

- Filed application on 6.8.2007
- Planning Board set Public Hearing for 7.10.2007 meeting
- Maintains required 60' ROW
- 68.111 PRD acres
- 7.454 PC acres (which includes the roadway)



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### Pending Concerns

- Extent of buffer between Meijers (light industrial) and future residential
- Extensive list of "Principal Permitted Uses" within the PC zoning district to includes HS uses
- Nature and amount of single family residential lots/units.
- Ensuring that main project is developed as "Empty Nester" development.
- Others?

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### Potential Solutions

- Buffer – add PC on east side of 60' ROW
  - Commercial use
  - Linear Park (over 5 acres)
- PC Uses – limit the "Principal Permitted Uses" to only those in the OS and/or GB zoning districts, in the rezoning ordinance (eliminate HS uses).
- Single Family Lots – limit the acreage for single family lots in the rezoning ordinance.
- Empty Nester Development
  - Establish age restrictions as originally contemplated, or
  - Accept historical treans and marketing forms as "lifestyle" community

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# Q&A

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## TIPP CITY COUNCIL MEETING

TIPP CITY, MIAMI COUNTY, OHIO

JUNE 18, 2007

**Roll Call**

President William D. Beagle called to order the regular meeting of the Tipp City Council at 7:40 p.m. Roll call showed the following Council Members present: Rick Mains, Jr., Vickie K. Blakey, Donald H. Ochs, President William D. Beagle, Mayor George H. Lovett, Tim Evans, and Patrick Hale.

In attendance: City Manager David A. Collinsworth, Law Director Joseph P. Moore, Assistant City Manager Bradley C. Vath, Police Chief Tom Davidson, Fire Chief Steve Kessler, Utilities Director M.J. Eichman, City Engineer Scott P. Vagedes, *Dayton Daily News* reporter Nancy Bowman, *Tipp Herald* reporter Mike Kelly, *Independent Voice* reporter Matt Bayman and Clerk of Council Misty Cheshire.

Citizens signing the register included: Michael McFarland, John Canzonere, Joe Bagi, Steven D. Wert, Cara Cater, Rebecca Cater, Katie Piper, Josh Wert, Jacob Wert, Clinton Piper, Ben Piper, Phillip Scadden, Ku Hui Scadden, Brandie McGarvy, Ron and Linda Whitt, David Dodd, Rick Mosier, Angi Franzer, Chris Weethee, Jeanette Weethee, Betty Weethee, Debbie Jackson and Elden Eidemiller.

**Invocation and  
Pledge of Allegiance**

Mayor Lovett delivered the invocation. President Beagle led the Pledge of Allegiance.

**Approval of Agenda**

President Beagle moved to amend the agenda to add a proclamation for Homeownership Month, seconded by Mayor Lovett. The motion carried with a vote of 7-0.

The amended agenda was unanimously approved with a motion made by Mayor Lovett, seconded by Mr. Ochs.

**Adoption of Minutes**

Mayor Lovett noted the following correction to the June 4, 2007 City Council minutes:

Page 202, paragraph 4, line 7 to change the word "he" to "the".

Page 202, Paragraph 5, "Sgt. Gulden stated that the current ordinance *policy* requires the police to contact every adjacent property owner and see if they have a complaint. ~~If a consensus is reached a citation can be issued.~~

Mr. Hale moved, seconded by Mr. Ochs, to adopt the amended minutes of the June 4, 2007 City Council Meeting. The motion carried with a vote of 6-0. President Beagle abstained from the vote due to absence.

**Proclamations**  
Col. Steven D. Wert

Mayor Lovett presented a proclamation to Col. Steven D. Wert to honor his 25 years of service to the United States Air Force.

Homeownership  
Month

Mayor Lovett proclaimed the month of June as Homeownership Month.

**Ordinances  
(Second Reading and  
Public Hearing)**

Ordinance 20-07  
Legacy District  
Rezoning

The following ordinances were presented to City Council for second reading and public hearing.

Ordinance 20-07: An ordinance to amend the zoning code and the map attached thereto by overlaying a portion of Tipp City adjacent to the railroad tracks with the Legacy District (LD) Overlay Zoning designation.

Clerk of Council Summary: The Planning Board reviewed and recommended this rezoning at their May 8th meeting.

City Manager Report: Mr. Collinsworth stated that this rezoning initiative followed the recommendations of the Legacy Reuse Plan and would establish a new overlay zoning classification known as "Legacy District" (LD). The City's goal was to find new ways to use structures in a way that was consistent with the current economy and physical needs of industry. The overlay classification would broaden the scope of permitted uses for the property owners.

President Beagle opened the public hearing. Law Director Moore swore in those wishing to testify during the public hearing. There being no testimony President declared the public hearing closed.

Mr. Ochs stated that it has been fulfilling to be a part of this process from the beginning to end. He was pleased with the input received from citizens and property owners. Mr. Ochs stated that he was excited about the end product and was encouraged about some of the possible uses for this district.

President Beagle stated that it was easy to find examples of where your government slows things down and passes regulations that get in the way. He stated that it was exciting to enact legislation that expanded uses and made it easier for people to reuse their property. He stated that this legislation would be great for the community and property owners.

There being no additional comments, Mr. Ochs sponsored this ordinance and moved for its adoption, seconded by Mayor Lovett. The motion unanimously carried. Ordinance 20-07 was declared passed and President Beagle affixed his signature in witness thereto.

**Resolutions  
(One Reading  
Required)**

Resolution 22-07  
Fieldstone Place  
Preliminary Plan

The following resolutions were presented to City Council for adoption.

Resolution 22-07: Resolution No. 22-07: A resolution approving the Preliminary Plan for Fieldstone Place Senior Living Campus Planned Residential Subdivision.

Clerk of Council Summary: The developer has requested approval of the Preliminary Plan for the Fieldstone Place Senior Living Campus Planned Residential Subdivision located near the intersection of County Road 25A and Evanston Road. The Planning Board reviewed the proposed plan at their June 12, 2007 meeting and has recommended approval to Council.



City Manager Report: Mr. Collinsworth reported that the Fieldstone development would be located at the northwest corner of County Road 25A and Evanston Road on 44.5 acres and would involve several different levels of housing including independent living, congregate care and assisted living. He noted that this property was annexed and rezoned in 2004 and carried with it a 26 month development moratorium which expired February 14<sup>th</sup> of this year. This project will be developed over six phases and would have 297 units when completed. As part of the City's PRD requirements, approval of the preliminary plan is also required by Council.

President Beagle stated that according the staff report, Lot 2 did not meet the density requirement, noting that the maximum density is 10 units per acre. Mr. Vath stated that lot 2, phases 3 and 4, have a density of 14 units per acre.

Mrs. Blakey asked Mr. Vath to identify each phase of the development. Mr. Vath stated that Phase 1 would consist of the assisted living and town square, Phase 2 is the memory care unit, Phase 3 is the congregate (apartment) living and garages, Phase 4 is the club house and duplexes, Phase 5 is additional congregate living with garages, and Phase 6 is the villas.

Mrs. Blakey asked if any of the units would be considered a nursing home. The applicant, David Dodd, stated that there would not be a nursing home designation. He stated that there was no available bed licenses for nursing homes in Miami County.

President Beagle asked the applicant to define the memory care unit. Mr. Dodd stated that memory care was assisted living. Mr. Collinsworth noted that the memory care unit would have some security differentiation in terms of access to and from the building.

There being no further discussion, Mrs. Blakey sponsored this resolution and moved for its adoption, seconded by Mr. Hale. The motion unanimously carried. Resolution 22-07 was declared passed and President Beagle affixed his signature in witness thereto.

Resolution 23-07  
Water/Sewer Truck

Resolution 23-07: A resolution authorizing the City Manager to purchase a 2008 Ford F-350 truck for the Water/Sewer Department from Mike Bass Truck Center through the State of Ohio Cooperative Purchasing Program in the amount of \$39,026.35.

Clerk of Council Summary: This resolution authorizes the purchase of a model year 2008 Ford F-350 one ton truck for the Water/Sewer Department, through the State of Ohio Cooperative Purchasing program. This item was included in the 2007 Capital Improvement Plan to replace a 1997 Ford F-150 ½ ton truck.

City Manager Report: As scheduled in the five-year Capital Improvement Plan the Water & Sewer Department's 1997 Ford 1/2 ton pick-up truck needs to be replaced. Mr. Collinsworth noted that a total of \$40,000 was budgeted for this purchase upgrading the vehicle to a one-ton "mini-dump". This vehicle and associated equipment is available to the City via State bid contracts in the amount of \$39,026.35 from Mike Bass Truck Center.



Mr. Collinsworth stated that Section 1 of the ordinance should be amended to read: "That the State of Ohio Department of Administrative Services has taken bids for certain vehicles for the 2007 model *fiscal* year and has determined the lowest and best bid for such vehicles."

There being no further discussion, Mr. Ochs sponsored this resolution and moved for its adoption, seconded by President Beagle. The motion carried with a vote of 7-0. Resolution 23-07 was declared passed and President Beagle affixed his signature in witness thereto.

Resolution 24-07  
Township Fireworks  
Contract

Resolution No. 24-07: A resolution authorizing the City Manager to enter into a contract with Monroe Township, Miami County, Ohio to cooperate on the annual Independence Day Fireworks Program.

Clerk of Council Summary: As in the past, the Monroe Township Trustees have authorized payment of \$6,000 towards the Independence Day Fireworks Program in Tipp City. This agreement specifies the terms and conditions of the Township's participation.

City Manager Report: The Township has agreed to help fund the annual Independence Day Fireworks Display. This \$15,000 program has been contracted with Pyrotecnico of New Castle, Pennsylvania. Mr. Collinsworth stated that the agreement with the Township was necessary in order for the Township to contribute their \$6,000 towards the program. A copy of the agreement was provided to City Council.

Mrs. Blakey asked if the City has established a phone number for residents to call to determine if the event is cancelled due to rain. Mr. Collinsworth stated that citizens could call the Police Department at 667-3112. He stated that the bigger threat this year was dryness and a number of communities in the south that are already looking at postponing their firework display.

There being no further discussion, Mr. Evans sponsored this resolution and moved for its adoption, seconded by Mayor Lovett. The motion carried. Resolution 24-07 was declared passed and President Beagle affixed his signature in witness thereto.

Resolution 25-07  
Sidewalk, Curb &  
Gutter Repairs

Resolution No. 25-07: A resolution of necessity for improvements on various streets upon the addresses attached to replace sidewalk, curb and gutter, and driveway approaches where necessary.

Clerk of Council Summary: This legislation fulfills requirements of the Ohio Revised Code to declare by Resolution of Necessity those repairs within the public right-of-way intended to be assessed to property owners abutting sidewalks, curbs and gutter, and driveway aprons.

City Manager Report: Mr. Collinsworth noted that every year, the Engineering Department inspects certain areas of the City to evaluate the condition of sidewalks, curb, gutter, and driveway approaches. Staff has tried to tie this inspection to the streets that are being resurfacing and any individual properties on which complaints have been received. Inspections have been completed and property owners have been notified. The City will hire a contractor to make any repairs that are not

**Ordinances  
(First Reading)**

Ordinance 21-07  
Code Amendment  
Barking Dogs

made by the property owners. Since the City's work may be subject to assessment, Ohio law requires that a resolution of necessity be passed.

There being no further discussion, President Beagle sponsored this resolution and moved for its adoption, seconded by Mr. Ochs. The motion unanimously carried. Resolution 25-07 was declared passed and President Beagle affixed his signature in witness thereto.

The following ordinances were presented to City Council for first reading. The second reading and public hearing will occur at the July 16, 2007 meeting.

Ordinance No. 21-07: An ordinance amending Section 90.05 of the Tipp City Code of Ordinances and declaring an emergency.

Clerk of Council Summary: This ordinance modifies current City Code requirements concerning animals and will assist in the enforcement of barking dog violations.

City Manager Report: Mr. Collinsworth noted that the proposed legislation would change the standard of annoyance from "the neighborhood" to "another person". As directed by City Council, the legislation was drafted as an emergency ordinance and will be effective immediately upon passage. He noted that the Law Director has approved the language of the ordinance.

Mr. Hale stated that throughout his research on this issue he found that many communities use the Ohio Basic Code Section 90:16 which states: "Continuous barking, yelping, howling and/or making other loud noises for 15 consecutive minutes by such dog, whether confined inside a residence or building or to the outside area, shall be deemed to have disturbed the peace and to have caused an annoyance and discomfort of persons: provided that at the time of the complaint, no person or persons were trespassing or threatening to trespass upon the private property of the owner, and provided that the dog was not being teased or provoked in any way."

Mr. Evans referenced Section 91.26 of the City of Dublin's dog barking ordinance which states: "No person shall keep or harbor any dog within the municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the municipality. Any person, who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such dog."

Mr. Moore stated that the word "municipality" would be no different than inserting the word "neighborhood", which is used in the current Tipp City ordinance. Based upon the interpretation of the Miami County Municipal Court the word "municipality" would not solve the problem.

Mr. Ochs noted that City Council was discussing the merits of changing the ordinance to read as follows: No person shall harbor or keep a dog which by loud and frequent or habitual barking, howling or

yelping, shall cause annoyance or disturbance to the neighborhood **another person**. Mr. Ochs stated that he supported the proposed change and the Police Department has had excellent success in the past enforcing this law. City Council can depend on the Police Department to properly apply the ordinance without enacting a policy.

Mr. Collinsworth noted that Chief Davidson was unable to attend the June 4<sup>th</sup> City Council Meeting and invited Chief Davidson to come forward and address the proposed code amendment.

Chief Davidson read the following statement into the record: Current Section 90.05 states "No person shall harbor or keep a dog which by loud and frequent or habitual barking, howling, or yelping, shall cause annoyance or disturbance to the neighborhood." The legislation before you proposes to change this ordinance to read "No person shall harbor or keep a dog which by loud, frequent, or habitual barking, howling, or yelping, shall cause annoyance or disturbance to another person". The proposed change in this Ordinance, Section 90.05, is in response to a ruling by the Municipal Court that, given the current wording of the ordinance, the "neighborhood" had to be disturbed by the dog's actions and the complaint of a single individual was insufficient for a violation. In that the ordinance does not define what constitutes a "neighborhood", the Police Department has no ability to enforce the provision of Section 90.05. After considering a number of Ordinances from other jurisdictions, we have proposed changing the ordinance from "the neighborhood" to "another person" primarily because that most closely reflects what the Police Department's practice has been for the past 16 or more years. It also establishes a simple, clear, and easily enforced standard. Currently, and prior to the recent interpretation of this section, the Police Department has always responded to the complaint of a barking dog based on a single complaint, from a single individual. In fact, that is the basis upon which the Police Department responds to every kind or classification of complaint we receive, from the least serious to the most serious. We always respond based on a single complaint and never require multiple complaints before responding. In the case of a complaint of a barking dog, the Officer will respond to the location of the complaint and listen to hear whether they complained about dog is barking or not. If the dog is barking, the Officer typically may also try to determine whether some external factor is causing the dog to bark and will contact the owner of the dog to make them aware of the complaint. If the officer does not hear the dog barking, as occurs in about 40-50% of our responses, the officer may or may not contact the owner of the dog to make them aware of the complaint. As with any other complaint that an officer responds to, the officer conducts an investigation, makes a determination as to the validity of the complaint, determines whether a violation of an ordinance has occurred, and then initiates what the officer believes to be an appropriate corrective action, which could be a verbal warning, a written warning, or a citation. Keeping in mind, of course, that the officer's ultimate objective is to take the corrective action he believes is necessary to resolve the problem so that it does not recur. Since January, 2004 the Department has responded to 427 animal/barking dog complaints. During that same time, the Department has issued a total of 8 citations. Clearly the vast majority of complaints regarding barking dogs are resolved without the need to issue a citation or take a formal court action. In the typical incident of a barking dog, we may receive a series of 4-5 complaints about a dog,



notifying the owner about the complaints, and then never receive another complaint. This would seem to indicate that typically the owner of the dog takes the steps necessary to resolve the problem. In closing, I don't believe there is anything in the proposed change that is offensive or would promote pettiness among neighbors. Instead, it reflects exactly what we have done for the past 16 + years and establishes for a dog owner a clearly defined standard of behavior. At the same time, the revised wording allows an individual to address an issue that is a concern to them and to resolve the issue with their neighbor. If you have any questions, I would be happy to try to answer them.

Phillip Scadden, 707 Shirley Drive, suggested the ordinance be amended to read: "No person shall harbor or keep a dog which by loud and frequent or habitual barking, howling or yelping, shall cause annoyance or disturbance to the neighborhood **a reasonable person.**" He felt his change would be fair to both dog owners and their neighbors.

Chris Weethee, 710 Rosedale Drive, read the following statement into the record: Let me please start by saying that my intentions in the beginning were not to make a change to the current dog ordinance, simply for a neighbor to control an animal. But, since the issue is about a resident fighting our current ordinance, now 2 problems exist, and I am left with only this choice. We simply want the problem before us to be resolved. I have been quietly dealing with the issue through our police department, and focusing on going through the proper channels. But lately I have read two different articles in the newspaper that quote false statements from Ms. Burns, and I felt that it is now time for me to speak louder and let the truth be heard. I have lived in Tipp City all of my life and at my present address since 2002. When Ms. Burns moved into the neighborhood in 2003, the problem with her dog barking began soon after. At first I thought maybe the dog needed to adjust to its new surroundings, but the barking continued anyway. The first year, I spoke with her husband Billy, who attempted to correct the problem, so if you review any reports during that time, you will see that the calls were few if any were made during that time. Since he no longer resides there, the problem has increased with hardly any attempt made by Ms. Burns to control her dog. I love dogs. I have one of my own and when I let her outside, I don't allow her to bark and bother any of the neighbors. Ms. Burns states that she came to my residence and gave my wife contact information with a list of numbers on how to get in touch with her, this is not true. Her mother came to my house once time, approximately 3 years ago and we discussed the situation, but that is all, she gave me her business card. Then last summer, her mother again arrived at my residence while I was at work and harassed my wife after she had called the police regarding the dog barking. Our son was only a few weeks old at that time and could not take his nap because of the dog barking. I have attempted to talk with Ms. Burns. I went to her house on one occasion, all the lights in her house were on and cars were in the driveway, but she did not answer the door bell. I spoke with one police officer and he advised me not to try and contact her again, in case she would try to file harassment charges. Ms. Burns states that we call the police 20-30 times daily that was also another false statement. If someone is calling that many times, then it is some other neighbor who is complaining. Calls made by me can be verified by police reports. From these reports, you will see the pattern of the calls and how they correspond to the time periods I have previously stated. Nine calls in

2005, 11 calls in 2006 and 12 calls so far in 2007. This year has been extremely rough since Ms. Burns has been fighting the change in the ordinance, but allowing the dogs to continue to bark. Out of all the calls made by me or my wife, this is only maybe half of the time when the barking has gotten so out of hand. The other half of the time, we have tried to ignore the situation, which has become very hard to do. While a realtor was showing an adjoining home the Burns dog was at the fence barking the entire time. I feel that this could also create a problem for me and depreciate the value of my property if in the future I have potential buyers who would not be interested in my property for the same reason. I have been addressing our situation with both Chief Davidson and a few of his officers, and all agreed that I am following procedures while waiting for the City to address any changes in the City's ordinance. There have been 6 other occasions this year where I have talked with officers outside my residence as the barking of her dogs continued in the background of our conversation. There was no statement made by Ms. Burns to the newspapers that I agree with, the Police officers do have better and more important things to do than go out on calls regarding barking dogs. I have made that statement myself to the officers. Thank you for your time, and hopefully the problem we are faced with here today will be resolved and help other residence that may encounter the same issue.

Linda Whitt, 740 Fern Court, stated that she was the mother of Liza Burns who was unable to attend the meeting. She stated that she kindly requested that the Weethee's contact her if they had problems with the dogs. Mr. Weethee has been very nice but his wife was very rude to her. Mrs. Whitt stated that she babysits at her daughter's house and the dog never barks. She stated that she advised her daughter to get an attorney because they didn't know what else to do. Mrs. Whitt stated that the Police have told her daughter that they feel sorry for her because the Weethee's call so much. The police walk around after a call and most of the time the dogs are not barking. She said that several dogs in the community bark but her daughter's dog seldom barks. She said the Mr. Weethee's claims were not true.

Mr. Weethee stated that Mrs. Whitt was correct in saying that he has been nice. He stated that he made all of the calls to the police not his wife.

President Beagle asked the Law Director to respond to the suggestion made by Mr. Scadden to add the word "reasonable".

Mr. Moore stated that City Council and the public needed to read the entire ordinance. He stated that ordinances do not exist in a vacuum in the court room; the magistrate imposes various tests such as credibility and consistency. The current ordinance places the burden on the City to prove all elements are present before a conviction can occur. To add the wording "a reasonable person" would create another burden that isn't needed. The City is trying to create an ordinance that can be enforced and control a certain kind of conduct or problem. He stated that there is no use passing an ordinance that cannot be enforced.



Mr. Scadden feared that some neighbors would use the ordinance to annoy and harass their neighbors without cause. He agreed that the ordinance needed to be amended but reiterated his suggestion that the word "reasonable" be applied.

Mr. Evans thanked Chief Davidson for his comments, which addressed concerns raised at the last meeting. To address the enforceability of the ordinance Mr. Evans referenced Section 90.26 of the City of Mt. Healthy's dog baring ordinance which states: "No owner, keeper, or harbinger of a dog shall permit or allow such dog to annoy or disturb one or more of the inhabitants of a residence of this municipality by the frequent or habitual howling, yelping, barking, or making of any other unreasonably loud and disturbing noises of such character, intensity, and duration as to disturb the peace, quiet and good order of the municipality. Upon an initial complaint in the police officers confirmation of the disturbance, it shall be police officer's duty to warn the individual in writing in violation. Upon a second such complaint within 30 days, the officer shall have the discretion to cite the person to Mayor's Court. Any person who shall allow any animal habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure owned or occupied by such person shall be considered as keeping or harboring such animal."

Mr. Moore stated that simply following a procedure doesn't necessarily give an ordinance validity.

Mr. Ochs stated that the issue was not enforcement of the ordinance it was the fact that the existing ordinance was not enforceable. The proposed wording would allow the police to do their jobs. He stated that he would be supporting the ordinance as written.

Chief Davidson stated that the Police Department receives about 120 dog barking complaints a year and only 2 or 3 citations are issued. The Police Department issues citation as a last resort. Citations are issued when the Police Department is at a loss to solve the problem another way. He stated that the department has never issued a citation on a first visit.

Mrs. Blakey asked if the Law Director's concern with the Ohio Basic Code Section 90.16 was that the term "persons" was used, implying more than one person must be disturbed.

Mr. Moore stated that he had several concerns with the Ohio Basic Code. As written it puts more burdens on the City than necessary to solve the problem. These types of cases must be proven beyond a reasonable doubt and he didn't want to enact an ordinance that would make it difficult for the City to enforce the law.

There being no further discussion, Mr. Mains sponsored this resolution and moved for its adoption, seconded by Mr. Ochs. The motion unanimously carried. Resolution 25-07 was declared passed and President Beagle affixed his signature in witness thereto.

Menards Subdivision

Mr. Hale sponsored an ordinance approving the final plat of the Menards Commercial subdivision.



Clerk of Council Summary: Planning Board has reviewed and recommended approval of the subdivision and final plat for this 66.56 acre development to be known as Menards Commercial Park.

City Manager Report: This subdivision, originally Tipp Interstate Park, will become the Menards Commercial Park. Mr. Collinsworth noted that a total of 66.56 acres were being covered by this replat including properties previously rezoned Office Service (OS) and R-3 Residential. He noted that this should be the final step necessary for the Menards project to move forward.

#### **Motions**

Accept Resignation

Mr. Ochs moved, seconded by Mr. Mains to accept the resignation of Doug Lohnes from the Restoration and Architectural Board of Review. The motion carried.

#### **Citizen Comments**

There were no citizen comments on items not on the agenda.

#### **Council Member Comments**

Mr. Evans commended the Downtown Tipp City Partnership on a successful first Farmer's Market. They estimated 400 people attended the event. He specifically thanked Reed Spenser, Matt Owen, Greg Enslen, and Adam Blake who put a lot of time and effort putting the event together. He stated that the Farmer's Market would be open on Saturdays from 9 a.m. – Noon from now until mid-September.


#### **City Manager Comments**

Mr. Collinsworth reported that mosquito fogging would begin tonight. The Water Department would begin hydrant flushing later in the week, which would occur during midnight and 8 a.m. He noted that he firework display will be held on Wednesday, July 4<sup>th</sup> at 10 p.m. in City Park. The rain date would be July 5<sup>th</sup>, same time and location. Mr. Collinsworth noted that the next City Council meeting will be held on July 16<sup>th</sup>.

#### **Adjournment**

There being no further business, it was moved by Mr. Evans, seconded by Mr. Ochs, that the meeting be adjourned. The motion unanimously carried. President Beagle declared the meeting adjourned at 8:58 p.m.

  
George H. Lovett, Mayor

Attest:   
Misty Cheshire, Clerk of Council

## TIPP CITY COUNCIL STUDY SESSION

TIPP CITY, MIAMI COUNTY, OHIO

JUNE 18, 2007

**Study Session**

Mr. Collinsworth opened the Study Session at 9:05 p.m. on this date.

**Roll Call**

Council Members in attendance included: President William D. Beagle, Vickie K. Blakey, Rick Mains, Jr., Tim Evans, Mayor George H. Lovett, Donald H. Ochs, and Patrick Hale.

Others in attendance included: Assistant City Manager Bradley C. Vath, Mike McFarland, Joe Bagi, *Dayton Daily News* reporter Nancy Bowman and Clerk of Council Misty Cheshire.

**Discussion -  
Ohio Public Works  
Commission Grants**

Mr. Vath used the attached PowerPoint presentation to outline the past and scheduled OPWC projects. Mr. Vath recommended the City submit a grant application for the Round 24 grant cycle to fund intersection enhancements for the Main Street Streetscape Program.

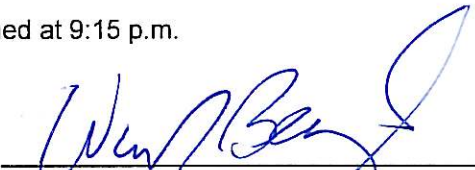
Mrs. Blakey asked if the City planned to put wires underground. Mr. Vath stated that Verizon owned the lines and would not pay for them to be placed underground. He noted that the City could install conduit under the crossings to accommodate the wires in the future.

Mr. Ochs asked if the traffic signal at Kenna Drive would be installed at the developer's expense. Mr. Vath confirmed that the developer would be responsible for that expense.

Council authorized staff to prepare a resolution authorizing the City Manager to submit a grant application for Round 24 of the Ohio Public Works Commission funding cycle.

**Adjournment**

The meeting adjourned at 9:15 p.m.

  
\_\_\_\_\_  
William D. Beagle, President of Council

Attest:

  
\_\_\_\_\_  
Misty Cheshire, Clerk of Council

# Tipp City OPWC Grants

6-18-2007 Study Session

1

## Ohio Public Works Commission

- ▶ Started in 1988 with statewide bond initiative (Issue 2) to generate grant monies for roads, bridges, water, sanitary sewer, & storm sewer projects.
- ▶ The Bond issue was renewed in 1997, and again 2006 as Issue 1.
- ▶ Tipp City is in District 11, which is comprised of 8 counties being: Miami, Greene, Darke, Preble, Clark, Madison, Union, & Champaign.
- ▶ Approximately \$10,000,000 is awarded by District 11 annually in grants, loans, and credit enhancements.

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## OPWC Past Projects

### Round 16 (FY 2002) – W. Main St. (I-75>CR25A)

◆ \$ 734,483 project \$ 450,000 grant, Excludes \$135,100 for South Weller Drive

### Round 17 (FY 2003) – W. Broadway (Hyatt>5<sup>th</sup>)

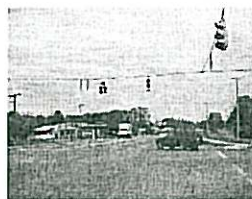
◆ \$ 567,580 project, \$ 325,000 grant

### Round 18 (FY 2004) – High School Imp. (K/C & T/C)

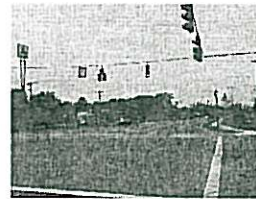
◆ \$ 1,817,723 project, \$ 900,000 joint grant

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## Round 16-W. Main St. Project



Before Improvements



After Improvements

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## Round 17-W. Broadway Project



Before Improvements



After Improvements

5

## Round 18-High School

Before Improvements



After Improvements



6



## OPWC Past Projects

### Round 19 (FY 2005) – N. Hyatt St. (Main>Park)

\*Final Costs \$ 880,961 project total to Excel Contracting, \$ 300,000 OPWC grant. Does not include \$9,000 for street trees.

### Round 20 (FY 2006) – StreetScape (Tipp.> Hyatt)

\*\$1,060,000 project, \$350,000 OPWC grant, \$275,000 ODOT TEA-21, \$92,000 ODOT Paving, \$343,000 Local monies (Construction in progress by Double Jay Con., Inc.) Project ID # 03-3220-P01

### Round 21 (FY 2007) – N. Hyatt St. (Comanche>Prill)

\*\$625,000, \$350,000 OPWC grant, \$153,000 CIP, \$67,000 Sanitary Sewer, & \$80,000 water \$10,000 MC Engineer. (Bid winter of 2007, Construction to August of 2008) Project ID # 06-3200-P13

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## Round 19- North Hyatt St.

Before Improvements

After Improvements



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## Round 20- StreetScape

Before Improvements

During Improvements



Rohrer & W. Main (SR571) Intersection

9

## Round 21 – North Hyatt St.



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## Tipp City OPWC 3-Year Pipeline

- ▶ Round 22 (FY2008) – Traffic Signal Coordination/StreetScape (CR25A > Hyatt) \$1,043,250
  - ▶ \$250,000 OPWC grant, & CMAQ \$458,217 (ODOT FY2009), Local total investment is \$352,927 (including mast arm upgrades to signals of \$164,556).
- ▶ Round 23 (FY2009) – StreetScape (RR> 3<sup>rd</sup> Street)
  - ▶ \$1,863,969 Estimate – \$350,000 OPWC grant, \$67,500 ODOT Paving, \$1,446,469 Local ( Construction in 2010) Project ID # 03-3220-P01
- ▶ Round 24 (FY 2010) – To Be Determined Tonight!

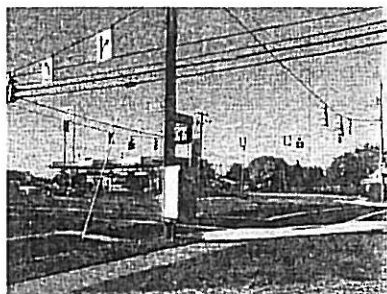
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## Recommended Round 24 Project

- ▶ StreetScape Intersections (Tippecanoe, Hyatt, Garber w/ 200' to I-75 ramp)
  - ▶ \$503,250 Estimated Project COST. Project ID # 03-3220-P01
    - ▶ \$301,950 SAFETY-LU ODOT Grant
    - ▶ OPWC Grant request of \$200,000
- ▶ Others ?
- ▶ Bid late 2010, with Construction in 2010/2011

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## Recommended Round 24 Project



Intersections &  
Garber 200'  
westerly

South 3<sup>rd</sup>  
Street

13

## Other Grant Deadlines

- ▶ Natural Resource Protection & Improvement (Clean Ohio Fund/NRAC) – 5<sup>th</sup> Round funding unknown
- ▶ CDBG – Application Due 4-2008
  - ▶ Tipp City was NOT recommended for funding in FY2007
- ▶ OPWC – Pre-Applications Due 7-2007
- ▶ Job Ready Sites – Applications (Round 3) due fall of 2007
- ▶ ODOT – CMAQ, STP, & TE
  - ▶ STP & CMAQ Applications fall of 2007
  - ▶ TE Applications fall of 2007.
- ▶ Recreational Trails (ODNR) - Application Due 2-1-2008
- ▶ natureWORKS (ODNR) – Applications Due 2-1-2008
- ▶ Private- Ongoing

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## Questions & Answers

?

15

